

## REMARKS

Claims 9, 11-13, 37 and 40 are pending in the application. Claims 9, 11, 13 and 37 have been amended. Claims 1, 4-8, 14-20, 22-33, 38 and 39 have been canceled without prejudice or disclaimer, claims 2, 3, 10, 21 and 34-36 having been previously canceled. Reconsideration of this application is respectfully requested.

The Office Action objected to the pendency in the application of the withdrawn claims 1, 4-8, 14-20, 22, 23, 38 and 39. These claims have been canceled. Accordingly, it is submitted that the objection is obviated by the amendment.

The Office Action rejects claims 9, 11-13, 37 and 40 under 35 U.S.C 103(a) as unpatentable over U.S. Patent No. 6,665,036 to Oh et al., hereafter Oh, in view of U.S. Patent No. 6,111,627 to Kim et al., hereafter Kim, U.S. Patent No. 5,995,186 to Hiroshi, hereafter Hiroshi, and U.S. Patent No. 6,061,114 to Calligari et al., hereafter Calligari.

The Examiner admits that Oh does not disclose the following recitations of finally rejected independent claim 9: "wherein said dry deposited layers are exposed to at least a first particle beam and a second particle beam".

The Examiner contends that Calligari discloses this feature, citing column 6, lines 19-31. In particular, the Examiner at page 6 of the Office Action contends that Applicants' disclosure shows only a single beam. The Examiner then reads the recited first and second beams on first and second ions of Calligari's beam.

Independent claims 9 and 37 and dependent claims 11 and 13 have been amended to change “first particle beam” and “second particle beam” to “first particle beam treatment” and “second particle beam treatment”, respectively. Support for this language is found in the specification at page 13, line 10 to page 16, line 21.

Calligari teaches to use a single particle beam treatment and not first and second particle beam treatments, as recited in amended independent claims 9 and 37. Therefore, amended independent claims 9 and 37 and dependent claims 11-13 and 40 are unobvious over the combination of Oh, Kim, Hiroshi and Calligari.

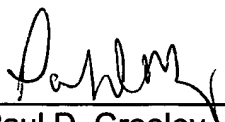
The Office Action provides no motivation for one skilled in the art combine Oh with Kim, Hiroshi and Calligari. In fact this suggested combination is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). “The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made.” Sensonic Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

For the reasons set forth above, it is submitted that the rejection of claims 9, 11-13, 37 and 40 under 35 U.S.C. 103(a) is obviated by the amendment and should be withdrawn.

It is respectfully requested for the reasons set forth above that the rejection under 35 U.S.C. 103(a) be withdrawn, that claims 9, 11-13, 37 and 40 be allowed and that this application be passed to issue.

Respectfully Submitted,

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